

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-051861

01/07/2011

HONORABLE ROBERT BUDOFF

CLERK OF THE COURT
L. Carlson
Deputy

AMERICAN NATIONAL BANK

FREDERICK E DAVIDSON

v.

JOHN NICHOLAS VATISTAS, et al.

COLIN F CAMPBELL

JEFFREY B MESSING
DENNIS I WILENCHIK

**TRIAL SETTING ORDER
(WITH PRE-TRIAL MANAGEMENT CONFERENCE)**

THIS IS A TRIAL SETTING ORDER. PLEASE READ CAREFULLY FOR COMPLIANCE.

IT IS ORDERED setting this matter for an 8-day jury trial commencing on **August 8, 2011¹** at **9:00 a.m.** before:

**HON. ROBERT BUDOFF
Judge of Superior Court of Arizona
Northeast Regional Court Center
18380 N. 40th Street
Courtroom #110
Phoenix, Arizona 85032
(602) 506-4569**

¹ One day's jury fees will be assessed unless the court is notified of settlement by 2:00 p.m. on the judicial day before trial.

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THIS IS A FIRM TRIAL SETTING. A MOTION TO CONTINUE ORDINARILY WILL NOT BE GRANTED.

Trial days are normally 9:00 a.m. to 4:30 p.m., Monday through Thursday.

Final lists of witnesses and exhibits shall be exchanged by **June 6, 2011**.

IT IS FURTHER ORDERED that all Motions in Limine shall be filed by **June 20, 2011**. All motions in limine shall be accompanied by written certification that counsel have met and conferred in accordance to **A.R.C.P. 7.2**. Motions in *limine* must meet the test of *State v. Superior Court*, 108 Ariz. 39 (1972): “The primary purpose of a motion in *limine* is to avoid disclosing to the jury prejudicial matters which may compel a mistrial.” See also Ariz. R. Evid. 103(c). Each side may file one motion in *limine* not to exceed 15 pages and not containing more than five separate subjects. Motions not filed in accordance with this order will not be considered.

IT IS FURTHER ORDERED a joint pretrial statement (JPTS) addressing at least all of the items set forth in Rule 16(d), Ariz. R. Civ. P., **shall be filed by July 8, 2011**. The following shall be filed with the JPTS:

- A. Proposed *voir dire* questions.
- B. A list to be read to the jury with names of all witnesses who may testify.
- C. A set of agreed-upon jury instructions.
- D. Separate sets of requested instructions that have not been agreed upon. (Review *Rosen v. Knaub*, 175 Ariz. 329, 857 P.2d 381 (1993) and the Recommended Arizona Jury Instructions (RAJI) Civil 4th “Statement of Purpose and Approach” before requesting non-RAJI instructions.) RAJI’s need not be typed and may be requested in the following manner: RAJI Civil 4th Preliminary—Duty of Jurors or by use of the jury instruction and verdict request forms contained in RAJI Civil 4th. Non-RAJI instructions should be typed. Each instruction should cover only one subject.
- E. A stipulated, brief summary of the case, which the court can read at the outset of *voir dire*.

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- F. Proposed findings of fact and conclusions of law (if a request for findings has been or will be filed).
- G. All deposition or other transcribed testimony to be used at trial including Rule 106 additions. The proposed testimony is to be identified by reference to page and line numbers. Objections, if any, to such testimony and the grounds for such objections are also to be set forth.

IT IS FURTHER ORDERED all exhibits shall be provided to the division clerk for marking by **July 8, 2011**. Original depositions are provided to the clerk for the record and are not marked as exhibits.

IT IS FURTHER ORDERED setting a Final Pretrial Management Conference for **July 15, 2011, at 8:30 a.m. (90 minutes)**.

At the PTMC, counsel who will try the case shall appear and be prepared to discuss and resolve where applicable:

- A. Time limits for *voir dire*, opening statements, witness examinations and closing arguments. Direct examinations shall not exceed 1 hour in length without leave of court. Cross-examinations shall not exceed 45 minutes in length without leave of court. Redirect examinations shall not exceed 15 minutes in length without leave of court. Opening statements shall not exceed 30 minutes in length per side without leave of court. Closing arguments shall not exceed 1 hour in length per side without leave of court. *Voir dire* shall not exceed 10 minutes per side without leave of court.
- B. Stipulations and objections regarding witnesses and exhibits. If time permits, the court will rule on objections. All objections to exhibits not set forth in the JPTS shall be deemed waived except for good cause.
- C. Jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements, *voir dire* and verdict forms.
- D. Agreed-upon deposition summaries and excerpts from depositions including objections thereto.
- E. Scheduling, equipment or interpreter issues.

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- F. Status of settlement efforts.
- G. Motions in *limine* and other pending motions.
- H. Use of short-trial or summary jury trial.
- I. Other matters addressed in the updated joint pretrial statement.

E-Courtroom Policies

Courtroom 110 is an “e-courtroom” and provides state of the art equipment for case presentation.

The e-courtroom does not have a court reporter present. With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court’s digital recording system before requesting a court reporter. CD’s of the proceedings are available to purchase for viewing and/or transcribing.

If a court reporter is required, the court must receive a separate written request at least 72 hours before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

THE FOLLOWING IS A SYNOPSIS OF THE DEADLINES IMPOSED ABOVE:

- 1. Final list of witnesses and exhibits shall be exchanged by: June 6, 2011.**
- 2. All Motions in Limine shall be filed by: June 20, 2011.**
- 3. A Joint Pretrial Statement (JPTS) shall be filed by: July 8, 2011.**
- 4. All exhibits to be used at trial shall be delivered to this Court’s clerk for marking by: July 8, 2011.**
- 5. The Final Pretrial Management Conference is: July 15, 2011.**
- 6. The Trial date is: August 8, 2011.**

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Time Estimates Form:

CAUSE NUMBER _____

CASE CAPTION _____

PLAINTIFF'S COUNSEL _____

DEFENDANT'S COUNSEL _____

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

CASE CAPTION:
TIME ESTIMATES

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant